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C O N F I D E N T I A L SECTION 01 OF 02 MANILA 000573

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TAGS: [PHUM](#) [PREL](#) [RP](#)

SUBJECT: UN SPECIAL RAPPORTEUR EXAMINES EXTRAJUDICIAL KILLINGS

REF: A. MANILA 0468
[1B.](#) MANILA 458

Classified By: DCM Paul W. Jones, reason 1.4 (d)

¶1. (C) Summary. The UN Special Rapporteur on extrajudicial killings views the Philippine government in a "state of denial" about who is responsible for these killings here, while crediting its leadership with its willingness to arrange meetings for him as well as its creation of Task Force Usig and the Melo Commission. In addition, he found that the reluctance of witnesses to testify due to intimidation was a severe limitation on judicial proceedings.

He discounted military claims that leftists killing leftists was an important element of the problem. He has not formulated any action recommendations, but we have encouraged him to focus on improving the witness protection program and on ensuring better police/prosecutor cooperation. These views are Alston's own, which Embassy wishes to flag given their likely imminent release to the media. We will continue our ongoing dialogue with Philippine government contacts to gauge their reaction and to determine next steps, including on how the USG could play an even more constructive role. End Summary.

¶2. (C) At the invitation of the Philippine government, Special Rapporteur of the UN Commission on Human Rights on Extrajudicial, Summary, or Arbitrary Executions Philip Alston (an Australian whose full-time job is as a professor of the New York University School of Law) is in the midst of a February 11-22 visit to the Philippines. He met privately with Pol/C on February 15 and briefed selected members of the diplomatic corps on some of his impressions on February 19. He will discuss his views with the media on February 21 but will not finalize his report to the UN Human Rights Council until May. During his visit, he met with Executive Secretary Ermita, senior officials from the Office of the Presidential Advisor on the Peace Process, the Department of National Defense, the Armed Forces of the Philippines, the Philippine National Police, the Department of Foreign Affairs, the National Security Council, the Commission on Human Rights, the National Bureau of Investigation, as well as Senator Enrile (chairman of the Senate Committee on Human Rights and Justice), retired Supreme Court Justice Melo (head of a presidential commission on unexplained killings), NGOs, and victims' families. His stops included Davao City and Baguio City as well as Manila.

¶3. (C) While emphasizing that his conclusions were not yet final and that he was not yet prepared to offer action or policy recommendations, Alston made the following comments; -- the Philippine leadership, to its credit, welcomed his visit and has taken some positive steps in dealing with what

it calls "unexplained killings," such as the creation of the Philippine National Police's Task Force Usig and the Melo Commission;

-- Philippine government officials nonetheless are in a "state of denial" about who is responsible for these politically-related killings, especially at the executive and operational levels;

-- "accountability mechanisms" to resolve such cases are weak and ineffective, with notably poor investigative skills and a clear unwillingness of the Philippine National Police to pursue cases that may involve elements of the Armed Forces of the Philippines;

-- in the very few cases where the Commission on Human Rights has been able to conduct investigations, such as the siege of a prison in Bicutan that led to at least 20 deaths, government agencies then "ignored" its findings;

-- judicial proceedings are severely hampered by the unwillingness of witnesses to come forward, due to direct or indirect intimidation or to a perception that they are "uniquely vulnerable" when those linked to such killings are also responsible for their safety;

-- the witness protection program is so flawed that even 80 pct of "strong cases" fall apart due to the inability to obtain witness testimony;

-- the ongoing Philippine counter-insurgency program is predicated on a "vilification of all leftists" to the extent that the leftists have essentially become "officially sanctioned targets."

¶4. (C) While welcoming the existence of Task Force Usig, he said that its role was sadly "reactive" and its emphasis on exact numbers was off-focus. He labeled the term used by the Philippine government on politically-related killings --

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"unexplained killings" -- "incorrect, misleading, and inappropriate." He said all such killings were inherently extrajudicial killings and were clearly intended to intimidate political activists and to undermine genuine political discourse, which he said was "symptomatic of a broader malaise." He noted that "disappearances" were at least as great a problem as documented killings, but the Task Force (or other government agencies) did not investigate these. He insisted that the Philippine government must take responsibility for all killings in its sovereign jurisdiction -- whether by the military, police, vigilante groups, death squads, or whoever -- given it has clearly not taken all "possible and appropriate steps" to stop them. He noted that even "ordinary killers" seemed to operate with a "sense of impunity" due to inability of Philippine authorities to bring more culprits to justice.

¶5. (C) Alston said that the Philippine military's claim that the Communists and leftists were killing each other was difficult to accept and there was no hard evidence to back up this claim, only anecdotal material. He noted that even now-retired Major General Palparan, whom many blame publicly with many such incidences of killing in areas of his then-command, had told the Melo Commission that he did not believe this theory, either. He said that the "Operation Bushfire" materials that the Philippine military had claimed had been captured from the New People's Army -- detailing such plans to kill "traitors" within the Communist ranks -- appear to be a "fabrication."

¶6. (C) Alston said that he had just received a copy of the Melo Commission's report, but noted that the government's refusal to release it publicly as well as its delay in providing it to him and other interested parties had "dissipated the goodwill" the government had earned with the creation of the Commission. He called upon the Philippine government to make the full report public immediately.

¶7. (C) Alston declined to speculate on his eventual recommendations for action, but he commented that the Philippine government "has the capacity to do better,"

working with the "vibrant civil society" within a "bizarre, but functioning political system." During their private meeting, Pol/C separately encouraged Alston to look specifically at ways to improve the witness protection program and to ensure early and effective cooperation between police and prosecutors as promising "fixes" on which the USG was also focused.

¶8. (C) Comment; Embassy wishes to flag Alston's views given their likely imminent release to the media. We will continue our ongoing dialogue with Philippine government contacts to gauge their reaction and to determine next steps, including on how the USG could play an even more constructive role.

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